

Lok Adalat: A Critical Analysis

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Abstract

This research paper scrutinizes the nature of LokAdalat (referred as Public Court or People's Court in India) and its significance as alternative dispute resolution mechanism. It is a forum where cases at pre-litigation phase in a court are mediated. The research paper begins with the elucidation of the system of LokAdalat in India. It further presents a conceptual framework for LokAdalat for giving relief to common man. This research is related to the formulation and execution of decision process in LokAdalat. The research takes the form of theoretical analysis, critique, field survey and case studies. The results of this research provide feedback about condition of LokAdalat in India. An analysis of LokAdalat in India indicates the necessity of efforts in order to acquire maximum welfare from such institutions. A preliminary assessment was conducted in order to obtain *in praesentia* circumstances of LokAdalat. Attempts have been made to collect information about its policy implications and input for formal structure of LokAdalat was taken mainly from the reports of the Commissions and Committees. The paper conclusively recommends further reformative and positive steps to eliminate complications having implication for policy and practices of LokAdalat.

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Introduction

In every civilised society justice plays an indispensable role. After independence, as the development of India began the need for justice with the increasing rate of disputes grew at an extraordinary rate. Numerous pending cases resulted in extra burden on judiciary, which in turn proved as an obstacle in disposal of cases. The latin maxim '*interest reipublicae ut sit finis litium*'³ means it is in interest of the state that there should be an end to a litigation and if it does not happen these litigations become as harmful as a plague for which treatment at the earliest stage is vital. In such scenarios expeditious justice becomes the medicine. The mode of achievement of remedy must also be agreed upon by both the parties involved. The time of ambiguity and indecisiveness should be ephemeral.

Hence, access to justice through Alternative Dispute Resolution (Hereinafter ADR) becomes important to understand. One of the finest and most accustomed mechanisms of ADR is Lok-Adalat which is expected to have an essential role in dispute settlement. LokAdalat is intended to provide speedy as well as efficient justice with the agreement of both the parties. LokAdalat also known as Public Courts or People's court is a forum that is supposed to resolves the disputes pending or at pre litigation stage. Being given statutory recognition under The Legal Services Authorities Act, 1987 of India, LokAdalat works on the principles of equity, justice and fair play. The internal mechanism of LokAdalat is such that when no award is made by LokAdalat on the grounds that no compromise or settlement could be arrived between the parties, the record of the case shall be returned by it to the court, from which the reference has been received.⁴

Apart from The Legal Services Authorities Act of 1987, LokAdalat's presence in India is also ensured by the Directive Principles of State Policies. Article 39A of the Indian Constitution advocates the primary objective of LokAdalat which is to provide free legal aid to the weaker sections of the country and to ensure that opportunity of justice is never denied.⁵ With the establishment of LokAdalat, the primary constitutional goal defined in the preamble as to provide justice socially, economically and politically, to provide liberty and to ascertain equality and fraternity, is anticipated to be achieved. Looking to such important and effective role of LokAdalat, our study revolves around the present status of it.

Objectives

³C.K. TAKWANI, CIVIL PROCEDURE CODE WITH LIMITATION ACT, 1963 68 (8th ed. 2017).

⁴The Legal Services Authorities (Amendment) Act, 2002, No. 37, Acts of Parliament, 2002 (India).

⁵INDIAN CONST. art. 39A.

The concise objectives of this research are to ascertain, examine and analyse the concept and law relating to LokAdalat and to further ascertain, examine and analyse the structure, powers, procedures and jurisdiction of LokAdalat, and furthermore to analyse the importance, role, advantages and shortcomings of LokAdalat in the Indian Judiciary System.

Hypothesis

If the institution of LokAdalat is proficient and effective in its justice delivery system then the roots of Indian judiciary will be strengthened with reduced pendency of litigation.

Research Methodology

This study was conducted with an aim to assess the impact of the implementation of LokAdalat in all over India. Attempts have been made to collect good number of reference cases. These cases further been analysed for their effects on common people and system.

Evident efforts were made to ensure transparency in data collection. A detailed information was collected through various sources such as – Newsletters published frequently by National Legal Services Authority of India, print and electronic media to develop an understanding about the processes, objectives, norms and impact of LokAdalat.

The Conception of LokAdalat: History And Utility

LokAdalat is not unknown to Indian judicial system. The roots of it in India are as ancient as Magna Carta. There are mentions of LokAdalat in the texts of Yajnavalakya, Narad, Gautam, Kautilya, Brihaspati, Manu and Bhrgu. The concept again emerged during the British Rule. They used it as a mechanism to restrict the voice of the people. However, this concept changed in March 1982 in Gujrat where the camps of LokAdalat were established and which currently are extended throughout the state.

As far as the utility of LokAdalat is concerned, one must refer to the words of Justice Ramaswamy, who says that the disputes resolved by the LokAdalat not only minimize the expenditure involved in litigation but also is a time saver for the parties and provides inexpensive remedy which in turn provides satisfaction to both the parties.

The main reason for rejuvenation of LokAdalat was due to the failure on the part of Indian Judiciary in maintaining the justifiable ratio of cases per judge, delay in disposal of cases by the court and finally due to high cost involved in litigation.

Structure of LokAdalat

The structure of LokAdalat at both Taluk and District levels are similar, each bench comprises of a sitting or a retired judicial officer, a legal professional and/or a social worker,

preferably a woman, who has been working in the area of uplifting the weaker sections of the society. Whereas, at the State and High Court levels each bench comprises of a sitting or retired judge of High court or a sitting or retired judicial officer, a legal professional and/or a social worker working in the area of uplifting the weaker section of the society.

The National level LokAdalats are organised on a single day throughout the country, in all the courts from Taluk Levels to the Supreme Court. On this day huge number of cases are disposed.

Permanent LokAdalat

The Permanent LokAdalat is one of the forms of LokAdalat which is established by the section 22-B of the Legal Services Authorities Act, 1987. These LokAdalats are established as permanent bodies with a chairman and two members to provide mechanism for conciliation and settlement of Public Utility Services related cases at a pre-litigation stage. The Structure of Permanent LokAdalat is such that it consists of a chairman, a person who is, or has been, a district judge or additional district judge or has held the judicial office which is higher than the office of district judge and two members having adequate experience in public utility service to be nominated by the Central Government or by the State Government on the recommendation of the Central Authority.

Procedure of LokAdalat

The procedure followed in LokAdalat is prescribed under section 20(5) of the Legal Authorities Act, 1987. The Act expressly mentions of expeditious disposal of cases referred to the LokAdalat. Generally seen, the cases involving monetary disputes are efficiently resolved in the LokAdalat. In order to resolve the case at the pre-litigation stage, it becomes extremely essential that the parties in dispute should give consent to the settlement. Necessarily the consent has to be whole hearted and the parties in dispute must agree to abide by the decision given by the LokAdalat. Since there is no court fees, any case which has been previously filed in a regular court, the fee which is paid is refunded to the party if the settlement of the dispute is arrived through the mechanism of the LokAdalat.

The procedural laws such as The Code of Civil Procedure, 1908 and The Criminal Procedural Code, 1973, The Indian Evidence Act, 1872 and the Limitation Act 1963 are not strictly followed whilst judging the merits of the cases referred to the LokAdalat. The decision given by the LokAdalat has binding nature on the parties to the dispute and the order of the court is capable of execution. Also, the decision of the LokAdalat is not appealable.

Similar procedure is adopted by the Permanent LokAdalats under the section 22D which provides the Permanent LokAdalats to work on the principles of equity, justice and fair play without giving strict regards to the procedural laws and the Evidence Act.

Jurisdiction of LokAdalat

The jurisdiction of the LokAdalat is determined by the section 19 (5) of the Legal Authorities Act, 1987. The section mentions thereof-

A LokAdalat will have the jurisdiction to determine and to arrive at a compromise or settlement between the parties to a dispute in respect of—

- (1) Any case pending before; or
- (2) any matter which is falling within the jurisdiction of, and is not brought before, any court for which the LokAdalat is organised: Provided that the LokAdalat shall have no jurisdiction in respect of any case or matter relating to an offence not compoundable under any law.

Powers of LokAdalat

The section 22 of the Legal Authorities Act, 1987 mentions about the powers of the LokAdalats. The LokAdalats shall have the power of the Civil Court, under the section 195 of The Code of Civil Procedure, 1908 such as, summon and compulsory attendance of the witness, enforcing the discovery and production of any documents, to receive evidence on affidavits, to specify its own procedure for determination of any dispute before the court.

As far as the proceedings before the LokAdalats are concerned they are regarded as judicial proceeding with regards to the section 193, 219 and 228 of the Indian Penal Code, 1860.

Critical Analysis

In praesenti LokAdalat has demonstrated to be one of the best mechanisms to achieve speedy dispute redressal through ADR system. Through the research it is evident that the statutory provisions of The Legal Services Authorities Act, 1987 provides to establish LokAdalat as a scientifically effective and proficient mechanism for expeditious justice. The procedures incorporated in the act, although litigant friendly, are nevertheless suffering from certain lacunas. As according to a legal maxim which says, “Justice delayed is Justice denied but Justice hurried is Justice buried” it was observed by the higher courts in India in numerous judgements that despite there being an express provision for speedy disposal of disputes the fair interests of the litigants cannot be overlooked.⁶

Another peculiarity observed was the lawyers were reluctant to refer the matter to the LokAdalats as their clients did not want the cases to be processed through LokAdalats. These

⁶Manju Gupta v. National Insurance Company, 1994 Acj 1036 (India).

parties were ready to follow the strict and stringent procedures of courts so as to ensure justice through courts other than LokAdalats. This behaviour of people and their advocates evidently reflects distrust towards LokAdalat. In a case before of Kerala High Court, The Hon'ble Chief Justice Mr. S. R. Bannurmath observed the follow drawback of LokAdalat– “However, the major drawback in the existing scheme of organization of the LokAdalat under Chapter VI of the Legal Services Authorities Act is that the system of LokAdalat is mainly based on compromise or settlement between the parties. If the parties do not arrive at any compromise or settlement, the case is either returned to the court of law or the parties are advised to seek remedy in a court of law. This causes unnecessary delay in the dispensation of justice. If LokAdalat has given power to decide the cases on merits in case parties fail to arrive at any compromise or settlement, this problem can be tackled to a great extent”.⁷

This defect however is removed in the Permanent LokAdalat. Furthermore, the forum of LokAdalat consisting of judicial persons and legal professional, confuse their role as judges to facilitate speedy justice and assume LokAdalat as a regular judicial forum.

Through these lacunas one might come to the conclusion that there is a need for implementation in the procedural and structural arenas only. This inference drawn would lead to insufficient results in acquiring maximum benefit from this institution. As according to the Supreme Court of India's Annual Report 2016-17 the following analysis was collected. The analysis shows that the High Courts across the country are heavily burdened with numerous cases pending:⁸

Cases Pending in the Year 2016-2017		
	2016	2017
Allahabad	924,438	917,955
Bombay	271,263	276,026
Calcutta	213,514	222,132
Chattisgarh	54,094	58,686
Delhi	65,165	68,342
Gauhati	47,624	48,487
Gujarat	92,396	102,463

⁷Bhoopesh v. M/S.NewInida Assurance, W.P.(C) Nos.30239 Of 2007 (India).

⁸ShobitMathur&PallabiMandal, *4.2 Million Cases Pending In High Court, Allahabad Tops List*, THE QUINT, (Feb. 12, 2018, 10:05 AM), <https://www.thequint.com/news/india/india-high-court-judges-appointment-delay-extends-to-delay-in-cases>.

Himachal Pradesh	25,784	25,694
Hyderabad	278,695	311,243
Jammu and Kashmir	61,194	64,632
Jharkhand	68,989	74,021
Karnataka	256,509	292,988
Kerala	161,052	170,538
Madhya Pradesh	283,119	296,164
Madras	341,255	349,935
Manipur	3,161	3,379
Meghalaya	672	724
Orissa	170,834	172,066
Patna	130,605	144,637
Punjab and Haryana	289,799	319,123
Rajasthan	250,236	257,859
Sikkim	137	184
Tripura	2,987	2,494
Uttarakhand	30,538	31,097

As per the above details, the data reveals that there is no relief in pendency of cases before the high courts of India. The evidentiary feature of conception of LokAdalats were to reduce the burden of the higher courts of India, ironically the present analysis shows that the relief which was desired by the establishment of LokAdalats did not serve the purpose.

Suggestions

The critical analysis of the LokAdalats in India shows a pressing need for implementations of better and effective policies in order to have even more impactful mechanism of ADR. The suggestions in order to minimize the ever increasing burden on the higher courts may therefore be studied on the lines given below:

Firstly, legal aid and literacy programmes have to be expanded. These programmes must desirably increase their reach towards the poor and needy at the grass- root levels. For this purpose increased use of mass media such as print media and electronic media should be resorted to with immediate effect.

Secondly, one of the drawbacks of LokAdalat was its failure in making people aware about it. Lack of knowledge led to reduced approaches from common public to avail the services of LokAdalat. Hence to increase its usefulness, the Legal Services Authorities or the committees which are concerned should develop effective strategies to publicize the information about the proceedings and the holding of LokAdalats at frequent and regular intervals. These committees must also disseminate the success stories and advantages in choosing the LokAdalat rather than regular courts for dispute resolution.

Thirdly, there is also a feeling of reluctance from the lawyers and advocates in referring the cases to the LokAdalat. In order to improve this condition the National Legal Services Authorities must realise the need for improvement in the remunerations offered to the advocates and lawyers. The revision of such remunerations would lead to encouragement in providing efficient legal assistance to the needy.

Fourthly, as it was highlighted by the High Court of Kerala and many other courts along with Hon'ble Supreme Court that the procedural structure of the LokAdalat lacks some essential aspects. The unnecessary delay in LokAdalats can be avoided by giving them the power to decide the cases on merits. Moreover there is a need for enactment for more statutory provisions allowing LokAdalats to be competent in justice delivery mechanism.

And lastly, there has to be participation of people in LokAdalat on their own so as to make the LokAdalat a successful and trust-worthy ADR system. In order to make this possible there has to be restriction on the cases which are trifle. These cases must not be entertained by the regular courts and must strictly be transferred to the LokAdalats.

Conclusion

The Legal Services Authorities Act, 1987, which gave birth to LokAdalat for speedy disposal of dispute arising among the parties serves well to Indian legal system but not at its fullest. As majority of India population is illiterate they seek justice through regular courts which is time consuming and at the same time over burdening for the courts. It has been more than three decades since the first LokAdalat was held, still it has not attained the objective with which it was established. Common man has not given due importance to LokAdalat as compared to other courts. The provisions and structure of LokAdalat still seek more power to be given to it. The importance of LokAdalat in Indian conditions is immense. It will not only provide speedy justice but will also strengthen the roots of rule of law in our judicial system provided its brighter sides are well informed. Hence, the position of LokAdalat in India needs to be strengthened in order to fulfil the constitutional aim of "equality, justice, integrity and

fraternity”. This will help the needy to acquire maximum benefit from this institution at minimum cost and labour and in return would help in building confidence of the citizens of our country on the judicial system including LokAdalat. This entire practice if followed and implemented fully will ensure expeditious disposal of maximum legal cases and will reduce burden of higher courts with which they are suffering at present.